



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Techniarts Engineering--Reconsideration

**File:** B-238520.7

**Date:** June 10, 1992

Dennis J. Riley, Esq., Elliott, Bray & Riley, for the protester,  
Gennell Williams, Naval Sea Systems Command, for the agency.  
Steven Gary, Esq., and David Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

The General Accounting Office will not consider a request for reconsideration of a decision based on evidence subsequently learned during court proceedings on the same matter where the court dismissed the protester's complaint with prejudice; a dismissal with prejudice by a court constitutes a final adjudication on the merits of a complaint which is conclusive not only as to the matters which were decided, but also as to all matters that might have been decided.

### DECISION

Techniarts Engineering requests reconsideration of our decisions in Peirce-Phelps, Inc., B-238520.2, Apr. 19, 1991, 91-1 CPD ¶ 385, aff'd, B-238520.3; B-238520.4, June 27, 1991, 91-1 CPD ¶ 608, and Techniarts Eng'g, B-238520.5; B-238520.6, Dec. 31, 1991, 92-1 CPD ¶ 20. We sustained the protest of Peirce-Phelps, Inc. against the Department of the Navy's initial award of a contract to Techniarts, under request for proposals No. N00024-89-R-4263(Q), then affirmed that decision, and subsequently denied Techniarts' protest against the award of a contract to Peirce-Phelps upon reevaluation. Techniarts contends that our decisions are inconsistent with the evidence and that it is entitled to award under the solicitation.


The United States District Court for the District of Columbia recently dismissed Techniarts' complaint against the award to Peirce-Phelps and entered judgment on behalf of the Navy; the court found that the Navy's reevaluation of proposals and consequent award to Peirce-Phelps was consistent with the solicitation and neither arbitrary nor

capricious. Techniarts Eng'g v. United States, No. 92 Civ. 0505 (D.D.C. Apr. 30, 1992).

When a protest or request for reconsideration raises a challenge to a procurement that has already been decided, with respect to that procurement, in a court of competent jurisdiction, the court's decision constitutes a final adjudication on the merits which is conclusive; it therefore bars further consideration of the issue by our Office. 4 C.F.R. § 21.9(a) (1992); Mine Safety Appliances Co., B-227839, July 8, 1987, 87-2 CPD ¶ 24. The effect of such a judgment extends to matters that might have been decided, as well as to matters which were decided. Santa Fe Corp., 64 Comp. Gen. 429 (1985), 85-1 CPD ¶ 361, aff'd, B-218234.3, May 3, 1985, 85-1 CPD ¶ 499.

Techniarts bases its request for reconsideration upon evidence which it states it learned for the first time during the district court litigation. Since the evidence was either considered by the court or could have been presented to the court by Techniarts, it does not furnish a basis for reconsideration of our decision.

Accordingly, the request for reconsideration is denied.

  
for James F. Hinchman  
General Counsel